



ILLINOIS COMMERCE COMMISSION

September 23, 1998

Ms. Magalie Roman Salas
Commission's Secretary
Office of the Secretary
Federal Communications Commission
1919 M St. N.W., Room 222
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Deployment of Wireline Services Offering Advanced Telecommunications
Capability, CC Docket No. 98-147

Dear Ms. Salas:

Enclosed please find one original and four copies of the Illinois Commerce Commission's Comments in the above referenced docket submitted pursuant to the FCC's Notice of Proposed Rulemaking released on August 7, 1998. I would appreciate acknowledgment of the receipt of this filing by the return of a duplicate time stamped copy of this letter in the enclosed self addressed, stamped envelope. If you have any questions, please do not hesitate to call me.

Very truly yours,

A handwritten signature in cursive script, reading "Myra Karegianes".

Myra Karegianes
General Counsel
Illinois Commerce Commission

Encl.

Cc: International Transcription Services, Inc.
1231 20th Street, N.W.
Washington, D.C. 20036

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matters of)	
)	
Deployment of Wireline Services Offering)	CC Docket No. 98-147
Advanced Telecommunications Capability)	
)	
Petition of Bell Atlantic Corporation)	CC Docket No. 98-11
For Relief from Barriers to Deployment of)	
Advanced Telecommunications Services)	
)	
Petition of U S WEST Communications, Inc.)	CC Docket No. 98-26
For Relief from Barriers to Deployment of)	
Advanced Telecommunications Services)	
)	
Petition of Ameritech Corporation to)	CC Docket No. 98-32
Remove Barriers to Investment in)	
Advanced Telecommunications Technology)	
)	
Petition of the Alliance for Public)	CCB/CPD No. 98-15
Technology Requesting Issuance of Notice)	RM 9244
of Inquiry and Notice of Proposed)	
Rulemaking to Implement Section 706 of)	
the 1996 Telecommunications Act)	
)	
Petition of the Association for Local)	CC Docket No. 98-78
Telecommunications Services (ALTS) for a)	
Declaratory Ruling Establishing Conditions)	
Necessary to Promote Deployment of)	
Advanced Telecommunications Capability)	
Under Section 706 of the Telecommunications)	
Act of 1996)	
)	
Southwestern Bell Telephone Company,)	CC Docket No. 98-91
Pacific Bell, and Nevada Bell Petition for)	
Relief from Regulation Pursuant to Section)	
706 of the Telecommunications Act of 1996)	
and 47 U.S.C. Sec. 160 for ADSL Infrastructure)	
and Service)	

**COMMENTS OF
THE ILLINOIS COMMERCE COMMISSION**

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SUMMARY

In its comments to the Notice of Proposed Rulemaking ("NPRM"), the Illinois Commerce Commission ("ICC") does not object to the adoption of minimum national rules for loop unbundling and provisioning, collocation, space preparation and construction intervals, to the extent (1) the Federal Communications Commission ("FCC") recognizes that the States have authority to set standards for those services, (2) the FCC preserves the States' ability to determine additional standards and (3) the FCC includes waiver provisions to address specific state and central office conditions.

Further, the ICC concludes that xDSL loops and digital loop carriers are subject to the unbundling requirements of Section 251(c) and that incumbent LECs bear the burden of proving that unbundling those elements is not technically feasible. The ICC also recommends that incumbent LECs be required to provide requesting competing LECs ("CLECs") detailed loop information, including loop wire gauge and size, and allow the collocation of CLEC digital subscriber line access multiplexers (DSLAMs) at the incumbent LEC remote terminal.

In addition, the ICC recommends that incumbent LECs bear the burden of proving that space is limited in the central office in the event they use space limitation as the basis for refusing to physically collocate a CLEC in the central office. The ICC also recommends that all CLECs be required to use Network Equipment and Building Specifications (NEBS) compliant equipment where the incumbent LEC uses such compliant equipment. Further, the ICC recommends that incumbent LECs be given the

flexibility to determine the type of security necessary for a particular central office to the extent such flexibility is not abused.

The ICC does not comment on the appropriateness of using a "de minimus exception" prior to designating the advanced services affiliate of an incumbent LEC as that incumbent LEC's assign pursuant to 251(h)(1) of federal Act when the incumbent transfers equipment used to provide advanced services to its affiliate. However, in the event the FCC concludes that de minimus exceptions are appropriate, the ICC recommends that those determinations be made on a case-by-case basis and the FCC should also seek State commission input. The ICC also recommends that the FCC consider the standards set forth in section 251(h)(2) in making a determination on whether or not the advanced services affiliate should be designated an incumbent LEC.

The ICC concludes that section 251(c) of the federal Act should not be imposed on advanced services affiliates to the extent that advanced service affiliates do not meet the definition of incumbent LECs under section 251(h). However, the ICC notes that the federal Act does not foreclose State commissions from imposing additional obligations on non-incumbent LECs as long as the additional obligations are consistent with the federal Act. The ICC further concludes that incumbent LEC advanced services affiliates should not be limited in their ability to resell telecommunications services or purchase unbundled network elements from the incumbent LECs, to the extent those wholesale services and unbundled network elements are made available to unaffiliated carriers at the same rates, terms and conditions as those made available to the affiliate.

Finally, the ICC seeks additional information on the types of advanced services the FCC seeks to allow Bell Operating Companies ("BOCs") to offer on an interLATA basis to or for elementary and secondary schools. The ICC recommends that small-scale changes to LATA boundaries be done on a case-by-case basis and the FCC should seek State commission input on those determinations.

I. INTRODUCTION AND OVERVIEW

The ICC submits its comments to the Federal Communications Commission ("FCC") in the above captioned proceeding. The ICC is the state regulatory body charged with the regulation of investor-owned telecommunications carriers in Illinois and has previously commented to the FCC in matters related to the regulation of telecommunications as they affect this industry in Illinois. This matter is of interest to the ICC due to the steps it has taken to promote local competition in Illinois, beginning in the late 1980s.

On August 7, 1998, the FCC issued an NPRM regarding the deployment of high-bandwidth services. It is seeking comments on various provisions and requirements associated with the provision of advanced services by wireline carriers. The FCC also makes several tentative conclusions to promote these services in a competitive manner.

II. PROVISIONS OF SECTION 706

A. Provision of Advanced Services through a Separate Affiliate

1. Advanced Services Affiliates

a. Circumstances Under Which an Advanced Services Affiliate Would Not Be an Incumbent LEC

The FCC seeks comment on its conclusion that under section 251(c), obligations to unbundle and offer resale at wholesale rates apply only to incumbent LECs, as defined in section 251(h) and attempting to apply those obligations on non-incumbent LECs would violate section 251 of the Act. Accordingly, to the extent an incumbent LEC's advanced services affiliate is not designated as an incumbent LEC, said affiliate will not be subject to

the obligations under section 251(c). NPRM at ¶ 94. The ICC concurs that section 251(c) obligations should not be imposed on advanced services affiliates to the extent that advanced service affiliates do not meet the definition of incumbent LECs under section 251(h). However, it is the ICC's position that the federal Act does not foreclose the State commissions from imposing additional obligations on non-incumbent LECs as long as the additional obligations are consistent with the federal Act.¹

The FCC seeks comment on whether an advanced services affiliate should be limited in its ability to either resell telecommunications services offered by the incumbent LEC or to purchase unbundled network elements from the incumbent LEC. NPRM at ¶ 101. It is the ICC's position that the advanced services affiliate should not be limited in its ability to resell telecommunications services or purchase unbundled network elements from the incumbent LECs.. However, those wholesale services or network elements should be made available to the advanced services affiliate by the incumbent LEC through tariffs or interconnection agreements. Further, the rates, terms and conditions at which the affiliate receives wholesale services and network elements should be made available to unaffiliated advanced services providers. This will prevent the incumbent LEC from favoring its affiliate over unaffiliated providers.

The ICC notes that it has in place tariff review processes that allow parties to lodge complaints regarding the rates, terms and conditions in an incumbent LEC's tariffs and

¹This position is consistent with that taken by the ICC in its comments to the FCC in the Matter of the Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, May 16, 1996, pp. 18-20. The ICC acknowledges that the FCC in its First Report and Order determined that states are precluded from imposing additional obligations on non-incumbent LECs. See, First Report and Order at paragraph 1248. The ICC filed comments as part of the Ohio PUC's Petition for Reconsideration and Clarification which asked the FCC to reconsider its position. To date, the ICC is not aware of an FCC ruling on the Ohio PUC's Petition.

seek State commission action. Unaffiliated providers could utilize that process to address any rates, terms and conditions included in the incumbent LEC's tariff that discriminates against those providers relative to the incumbent LEC's affiliate. Further, Section 252(e) provides State commissions with the authority to reject agreements adopted by negotiation between incumbent LECs and competing telecommunications carriers if the agreements are discriminatory or not in the public interest. 47 U.S.C. §252(e)(2)(A). This vehicle would allow unaffiliated providers to analyze the agreement negotiated between the incumbent LEC and its affiliate before it goes into effect and notify the ICC of any discriminatory provisions included therein. The ICC could then reject the agreement or have the negotiating parties modify the agreement to address problems associated with it.

b. Transfers from an incumbent LEC to an Advanced Services Affiliate

The FCC seeks comment on how particular transactions between incumbent LECs and their advanced services affiliates should affect the regulatory status of the affiliates. Specifically, the FCC seeks comment on whether the advanced services affiliate of an incumbent LEC should be considered an assign of the incumbent LEC if it acquires facilities on its own, and not by transfer from the incumbent LEC. NPRM at ¶¶ 104-105. The ICC declines to comment on this issue because many factors, in addition to the transfer of facilities, can contribute to whether an affiliate is deemed to be an assign or successor of an incumbent LEC. Further, Section 251(h)(2) of the federal Act sets forth the standards for treating a local exchange carrier as an incumbent LEC. Specifically, Section 251(h)(2)(A) states that a LEC (or a class or category thereof) will

be treated as an incumbent LEC if "such carrier occupies a position in the market for telephone exchange service within an area that is comparable to the position occupied by a carrier described in paragraph (1)." Further, Section 251(h)(2)(C) states that incumbent LEC treatment of a local exchange carrier is warranted where "such treatment is consistent with the public interest, convenience, and necessity and the purposes of this section." The ICC notes that the affiliate's position in the market would not be impacted by the manner in which the affiliate attained its facilities, and that classifying the affiliate as a non-incumbent LEC merely because the affiliate acquires its own facilities may be improper and may stifle additional competition. Specifically, if the advanced services affiliate is the sole provider of advanced services in a given market, such affiliate may be occupying a position in the market that is comparable to that occupied by an incumbent LEC. Further, there may be public interest considerations that impact whether or not the advanced services provider should be designated an incumbent LEC. These issues would need to be addressed on a case-by-case basis.

The FCC seeks comment on its tentative conclusion that any transfer of local loops from an incumbent LEC to an advanced services affiliate would make the affiliate an assign of the incumbent LEC and subject to section 251(c) with respect to those loops. NPRM at ¶¶ 107-108. The ICC agrees with the FCC's tentative conclusion on this issue. A central purpose of section 251(c) was to open up the local exchange monopoly to competition, which required imposing certain duties on the incumbent LECs, including unbundling network elements and making them available to competing carriers. If the incumbent LEC

were allowed to transfer local loops to its advanced services affiliate and section 251(c) obligations were not imposed on the affiliate, the incumbent LEC could gradually transfer the loops associated with its desirable customers to the affiliate thereby making these customers unavailable to competing carriers. This outcome would not further the goals of section 251(c). Further, this problem is intensified if the incumbent LEC transfers loops that are currently being leased by a competing telecommunications carrier to its advanced services affiliate because the affiliate is under no obligation to continue offering those loops on an unbundled basis. Accordingly, the competing carrier could potentially lose access to those unbundled loops and hence its retail customers.

The FCC tentatively concludes that, if an incumbent LEC sells or conveys central offices or other real estate in which equipment used to provide telecommunications services is located to an advanced services affiliate, that would make the affiliate an assign of the incumbent. NPRM at ¶ 113. For the reasons set forth above, the ICC agrees with the FCC's tentative conclusion on this issue.

The FCC seeks comment on whether there should be a de minimus exception under which a limited transfer of equipment (used specifically to provide advanced services) would not make an advanced services affiliate an assign of the incumbent LEC. The FCC also seeks comment on what should be deemed a "de minimus transfer of equipment." Further, the FCC seeks comment on whether it should apply de minimus exceptions to transfers of equipment that the incumbent LEC purchased and installed, or to equipment that the incumbent LEC has ordered but not installed. In

addition, the FCC seeks comment on whether there should be a time limitation associated with any de minimus exceptions. NPRM at ¶¶ 108-109.

The ICC declines, at this time, to provide an opinion regarding the appropriateness of de minimus exceptions as they relate to the transfer of equipment used to provide advanced services from an incumbent LEC to its advanced services affiliate. However, to the extent the FCC concludes that a de minimus exception is appropriate, the ICC recommends that the FCC examine any determinations associated with a de minimus exception on a case by case basis. It is a practical impossibility to anticipate the manner in which the various incumbent LECs will structure transfers of equipment utilized to provide advanced services. Further, it is a practical impossibility to anticipate the type of equipment that those transfers will entail given the speed at which advanced services evolve. Instead, the ICC recommends that the FCC develop a mechanism whereby the FCC works with State commissions to address specific proposals by incumbent LECs to transfer equipment used to provide advanced services to their advanced service affiliates. The FCC should also seek State commission input on whether designating the advanced service affiliate as an assign to the incumbent LEC is warranted.

The Illinois Public Utilities Act contains requirements according to which incumbent LECs must seek approval prior to transferring assets to its affiliates. Specifically, 220 ILCS 5/7-101 of the Illinois Public Utilities Act requires an incumbent LEC (public utility) to seek the ICC's approval prior to transferring assets to its affiliate. Further, 220 ILCS 5/7-102 of the Illinois Public Utilities Act requires incumbent LECs to

seek ICC approval of asset transfers in excess of \$300,000. In addition to Illinois' requirements, the FCC could also set requirements in place for asset transfers amounting to less than \$300,000 if it concludes that transfers smaller than this amount necessitate an examination into the incumbent LEC status of an advanced services affiliate.

The FCC seeks comment on the types of transfers an incumbent LEC may wish to make to its advanced services affiliate and whether these transfers should make advanced services affiliates assigns of incumbent LECs. The FCC recommends that commenters consider, among other things, transfers of customer accounts, employees, brand names and customer proprietary network information. In addition, the FCC seeks comment on whether, and to what extent, transfers of funds from an incumbent LEC's corporate parent to the incumbent LEC's advanced services affiliate should affect the affiliate's regulatory status as a non-incumbent LEC. NPRM at ¶ 113. The ICC cannot comment on these issues due to their interrelationship with issues being addressed in pending ICC Dockets 97-0344 and 98-0385.

The FCC tentatively concludes that, if it adopts a de minimus exception for transfers of network elements, it should adopt an analogous exception for any transfers of other assets. It also tentatively concludes that if it adopts any exception from the nondiscrimination requirement for transfers of network elements, it should adopt an analogous exception for transfers of other assets. The FCC seeks comment on its tentative conclusions. NPRM at ¶ 115. The ICC is not in a position to comment on the appropriateness of a de minimus exception. However, the ICC recommends that, to the

extent the FCC concludes that de minimus exceptions are appropriate, the FCC consider requests for de minimus exceptions on a case by case basis and seek the input of State commissions on this issue.

B. Measures to Promote Competition in the Local Market

1. Collocation Requirements

a. Adoption of National Standards

The FCC seeks comment on the extent to which it should establish additional national rules for collocation pursuant to sections 201 and 251. NPRM at ¶ 123. It tentatively concludes that any adopted standards in this proceeding would serve as minimum requirements and that states would continue to have the flexibility to adopt additional requirements that respond to issues specific to that state. NPRM at ¶ 124. The ICC supports the concept of minimum national standards conditioned on (1) the recognition of State authority over these items, (2) the continued flexibility of the states to determine and impose additional standards for technical, demographic or geographic reasons, and (3) the continued flexibility of states to consider and impose additional interconnection standards in order to promote efficient competition in the local exchange market. Also, the ICC recommends that the FCC make available a waiver provision to allow State commissions to deviate from minimum national standards if needed.²

In addition, the FCC seeks comment on any measures it can take to aid enforcement of its collocation requirements. The ICC notes that Illinois enforces

²This position is consistent with that taken by the ICC in its comments to the FCC in CC Docket No. 96-98, May 16, 1996, pp. 18-20.

collocation requirements, among other things, though the processes contained in sections 13-514 through 13-516 of the Illinois Public Utility Act, 220 ILCS 5/13-514 - 13-516. These sections set forth an expedited 60-day complaint process against carriers that engage in activities that impede the development of competition. Specifically, "pursuant to these sections the Commission may impose directions and a deadline for correction of any violation." 220 ILCS 13-515(d)(7).

b. Collocation Equipment

In its *Local Competition Order*, the FCC concluded that new entrants may collocate transmission equipment, including optical terminating equipment and multiplexors, on incumbent LEC premises. The FCC further concludes that incumbent LECs need not permit the collocation of other types of equipment, including switching equipment and equipment used to provide enhanced services. NPRM at ¶ 127 (citing *Local Competition Order*, 11 FCC 96-325 at ¶581). However, with the advancement in technology, the FCC is now considering whether it needs to revisit any of these rules established in that Order. The FCC seeks comment on various issues associated with collocation. NPRM at ¶¶ 128-134. The ICC is limited in its ability to comment on collocation issues due to pending ICC Docket 98-0191.

In paragraph 135, the FCC seeks comment on whether competitive LECs should be required to use Network Equipment and Building Specifications (NEBS)-compliant equipment where the incumbent LEC uses NEBS-compliant equipment for equivalent functions. NPRM ¶135. The ICC recommends that all competing local exchange carriers (CLECs) should be required to use NEBS compliant equipment where the

incumbent LEC uses such compliant equipment. Using the NEBS compliant equipment will ensure safety standards are not compromised. The risk of collocating noncompliant equipment by CLECs is a risk that should not be taken in the name of "enhanced competition."

c. Allocation of Space

The FCC tentatively concludes that incumbent LECs should be required to offer collocation arrangements to both new entrants and any advanced services affiliate to minimize space needed by competitors in order to promote deployment of advanced services. NPRM at ¶ 137. The FCC suggests possible alternative collocation arrangements, including "cageless" collocation. In general, the ICC would support minimum national standards with regard to the allocation of collocation space, as long as, the FCC standards are minimum standards, recognize that States have authority to set standards for those services, and do not interfere with the States flexibility to impose additional standards as the States may deem necessary. Finally, the FCC's standards should provide for waivers if needed.

Further, the FCC seeks comment on whether incumbent LECs should be allowed to require escorts for CLEC technicians; whether concealed security cameras or badges with computerized tracking systems would provide sufficient protection; whether security measures should vary, or be allowed to vary, by central office (CO); and what security measures are appropriate for unstaffed offices in remote areas. NPRM at ¶141. The ICC takes the position that incumbent LECs should have the flexibility to determine the type of security necessary for a particular CO. Each CO,

although similar in some respects, can be quite unique as well. Since all COs are not identical, security measures should, in fact, be allowed to vary by CO. For example, COs in remote areas where escorts may not be available at all times, security cameras and/or badges with tracking capabilities could be utilized. As long as the incumbent LEC does not preclude CLECs from entering the CO, or unduly place burdens upon the CLECs for movement within the facilities, the decisions regarding security should be those of the incumbent LEC. However, if a CLEC in Illinois is opposed to an incumbent LEC's security provisions , it may utilize the complaint process established in the Illinois Public Utilities Act.

In the event that the FCC concludes that escorts for CLEC technicians are needed, it should only impose that requirement under certain conditions. First, the ICC recommends the incumbent LEC should not use the escorts as a reason to deny CLECs access to the CO. Therefore, if escorts are required for CLECs to enter the CO, they should be made available by the incumbent LEC on demand . Furthermore, the escorts should not hinder the CLEC technician's access to necessary equipment.

In paragraph 142, the FCC seeks comment on whether there should be any uniform standards that would apply on a national level with regards to collocation given that space preparation and construction times vary greatly depending on location. NPRM at ¶142. The ICC supports the concept of minimum national standards as long as the ability of States to provide standards in this area is recognized and the flexibility of States to determine additional standards is preserved, and as long as waiver provisions are available to address specific state and central office occurrences.

d. Space Exhaustion

In paragraph 146, the FCC seeks comment on the following tentative conclusions:

- a) An incumbent LEC that denies a request for physical collocation due to space limitations should continue to provide the state commission with detailed floor plans and should allow any competing provider that is seeking physical collocation at the LECs premises to tour the premises.
- b) State commissions will be better able to evaluate whether a refusal to allow physical collocation is justified if competing providers can view the LECs premises and present their arguments to the state commission.

The ICC agrees with the FCC's tentative conclusion that State commissions are in a better position to evaluate issues associated with space allocation in an incumbent LEC's central offices. The ICC recommends that, in the event an incumbent LEC refuses to allow physical collocation to a competing provider due to space limitation, that the incumbent LEC take the competing provider on a tour of the central office to verify that space limitation is an issue. In the event the competing provider is not satisfied with the incumbent LEC's demonstration, it could file a complaint with a State commission requesting independent verification. Whereupon the incumbent LEC would be required to provide the State commissions, upon request, with explicit floor plans detailing the reasons for denial. The ICC notes that this type of arrangement has been included in several negotiated agreements filed with the ICC.

e. Effects of Additional Collocation Requirements

In paragraph 150, the FCC seeks comment on whether any of the FCC's tentative conclusions or proposals might affect existing negotiated and arbitrated interconnection agreements, existing state requirements, or pending state proceeding. NPRM at ¶150. The ICC notes that a number of interconnection agreements which it has approved, state that switching equipment cannot be collocated. Many, but not all, of these agreements contain provisions that would allow the carriers to the agreement to adjust their terms based on regulatory changes. If the FCC were to allow switching equipment to be collocated, some, but not all, carriers may need to modify their interconnection agreements.

2. Local Loop Requirements

a. Adoption of National Standards

In paragraph 154, the FCC seeks comment on the extent to which it should establish additional national rules for local loops pursuant to sections 201 and 251 in order to remove barriers to entry and speed the deployment of advanced services. NPRM at ¶154. The ICC believes that the FCC should only adopt minimum national rules for local loops, while recognizing that the States have authority to adopt standards for local loops, and that States should continue to have the flexibility to adopt additional loop provisioning requirements. The States are in a better position to address specific issues associated with incumbent LEC loop provisioning.

The ICC currently requires interconnection and sub-loop unbundling pursuant to 83 Illinois Administrative Code Part 790. (Attached hereto as Exhibit A). Code Part

790 requires incumbent LECs to offer sub-loop unbundling to the extent it is technically feasible and will not harm the network or cause the services of another carrier to be degraded as a result of the interconnection. This rule also allows competing providers to request sub-loop unbundling through a bona fide request process. The LEC can petition for a waiver of the requirements if it can prove that the request is not technically feasible or contrary to the public interest. Based on the policies set forth in that Code Part, it is the ICC's position that interconnection, at any technically feasible point, in the loop should be available to competing providers to the extent it does not harm the incumbent LEC's network or alternative provider's ability to offer service. This would include access to xDSL equipment. Further, the ICC takes the position that the term "technical feasibility" should also include the ability of the incumbent LEC to adequately distribute the costs for the interconnection and use of the interconnected equipment. The ICC utilizes technical interconnection standards for sub-loop connections as specified in 83 Illinois Administrative Code 305-Construction of Electrical Power and Communications Lines (Attached hereto as Exhibit B). The ICC recommends that the FCC adopt those standards.

b. Loops and Operations Support Systems

In paragraph 157, the FCC tentatively concludes that incumbent LECs should provide requesting CLECs with sufficient detailed information about the loop so that CLECs are able to determine whether the loop is capable of supporting the xDSL. NPRM at ¶157. It seeks comment on whether its existing operations support system rules adequately ensure that CLECs have access to necessary information about

loops. Id. The ICC supports the FCC's tentative conclusion. Also, in order to provide requesting CLECs with sufficient information, the ICC recommends that incumbent LECs make the loop wire gauge and size available to alternative advanced service providers because they are important components in the determination of the speed and feasibility of advanced service offerings over a loop.

c. Unbundling Loops Passing through Remote Terminals

In the FCC's Memorandum Opinion and Order, it granted ALTS' request for a declaratory ruling that incumbent LECs are required to provide loops capable of transporting high-speed signals where technically feasible. Order at ¶¶52. Further, the FCC tentatively concludes that the incumbent LEC shall bear the burden of demonstrating that it is not technically feasible to provide requesting carriers with xDSL compatible loops. NPRM at ¶¶167. The ICC concurs with the FCC's tentative conclusion and notes that the FCC's tentative conclusion that the burden of proof should be placed on the LECs is consistent with Illinois' rule contained within Code Part 790. See, 83 Ill. Adm. Code 790.320(e).

In paragraph 171, the FCC seeks comment on its tentative conclusion that CLECs may request any "technically feasible" method of unbundling the DLC-delivered loop, and that the incumbent LEC is obligated to provide the particular method requested, unless the incumbent LEC demonstrates that the method(s) requested are not technically feasible in which case the incumbent LEC may offer another unbundling method that would provide the CLEC with a loop of equal quality and functionality as the incumbent LEC's loop. NPRM at ¶¶171. The ICC agrees with the FCC's tentative

conclusions. Also, the ICC believes that CLECs should be allowed to have access to the unbundled loop at the remote terminal. The ICC's recommendation is consistent with Illinois' rule contained within Code Part 790. See, 83 Ill. Adm. Code 790.300-320.

The FCC seeks comment on whether it needs to extend the concept of loop unbundling to sub-loop elements in order to further the pro-competitive goals of the Act, and whether it should require incumbent LECs to unbundle sub-loop elements and provide CLECs access to the remote terminal so that CLECs can provide advanced services. NPRM at ¶173. The ICC contends that CLECs should be allowed to collocate digital subscriber line access multiplexers (DSLAMs) at the remote terminal. This would help ensure that advanced services are provided in a DLC environment. Allowing collocations at the terminals would also seem to be consistent with the sub-loop unbundling philosophy. In regard to the issue of security for access into the units, the incumbent LECs should be allowed to set those requirements as long as they do not impede the development of competition.

C. Limited InterLATA Relief

In paragraph 191, the FCC seeks comment on the scope of this authority as it relates to BOC provision of advanced services. In section 271(g)(2) of the Act, BOCs are permitted to provide "two-way interactive video services or Internet services over dedicated facilities to or for elementary and secondary schools." The FCC states that this section clearly allows the BOCs to provide certain advanced services to or for elementary and secondary schools. (emphasis added) NPRM at ¶ 191. The ICC

recommends that the FCC clarify what advanced services are included when it stated that *certain* advanced services are to be provided regarding section 271(g)(2).

The FCC seeks comment on the criteria that it should use to evaluate LATA boundary modification requests. NPRM at ¶ 192. The ICC concurs with the FCC's decision to decline requests for large-scale changes in LATA boundaries. However, the ICC also realizes that it is likely that many companies will file for interLATA boundary waivers. The ICC is concerned about an influx of companies alleging a need for boundary waivers and, therefore, stresses that the FCC require detailed information be included in the waiver petition. The ICC recommends that waiver requests be reviewed on a case-by-case basis and that State commissions be given the opportunity to comment in waiver proceedings.

The FCC also seeks comment, in paragraph 192, on whether additional relief beyond the incidental interLATA authority set forth in section 271(g)(2) would help ensure that elementary and secondary schools and classrooms have adequate access to advanced services. The ICC is sympathetic to rural concerns, however, it is worried about the effect boundary modification requests may have on the universal service fund.

III. CONCLUSIONS

The ICC supports the FCC's efforts to ensure that the marketplace for advanced services is conducive to investment, innovation and meeting the needs of consumers. The ICC appreciates this opportunity to convey its comments on yet another issue that will further the goals of the federal Act.

Respectfully submitted,



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**TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER b: PROVISIONS APPLICABLE TO MORE
THAN ONE KIND OF UTILITY**

**PART 305
CONSTRUCTION OF ELECTRIC POWER AND
COMMUNICATION LINES**

Section	
305.10	Policy
305.20	Scope and Incorporation by Reference of Portions of the National Electric Safety Code (NESC)
305.30	General Rules
305.40	Application
305.50	Certificates of Public Convenience and Necessity
305.60	Notification Procedure for Applications
305.70	Advance Notice and Cooperation
305.80	Interchange Data
305.90	Coordinated Locations of Lines
305.100	Overbuilding or Underbuilding
305.110	Exceptions and Additions to NESC Provisions
305.120	Intent
305.130	Exemption
305.Table A	Vertical Separation of Crossarms Carrying Conductors

AUTHORITY: Implementing Section 8-505 and authorized by Section 10-101 of the Public Utilities Act (Ill. Rev. Stat. 1991, ch. 111 2/3, pars. 8-505 and 10-101) [220 ILCS 5/8-505 and 10-101].

SOURCE: Effective June 1, 1963; rules repealed at 8 Ill. Reg. 19750, effective October 1, 1984; new Part adopted at 8 Ill. Reg. 19943, effective October 1, 1984; amended at 9 Ill. Reg. 11803, effective July 25, 1985; amended at 16 Ill. Reg. 6180, effective April 25, 1992; amended at 17 Ill. Reg. 22043, effective February 15, 1994.

Section 305.10 Policy

The purpose of this Part is the practical safeguarding of persons during the installation, operation, or maintenance of electric supply and communication lines and their associated equipment. It contains minimum requirements considered necessary for the safety of employees and the public.

Section 305.20 Scope and Incorporation by Reference of Portions of the National Electric Safety Code (NESC)

- a) This Part shall apply to electric utilities and those telecommunications carriers subject to Section 8-505 of the Public Utilities Act (Ill. Rev. Stat. 1991, ch. 111 2/3, par. 8-505) [220 ILCS 5/8-505].

- b) The Illinois Commerce Commission adopts as its rules the following portions of the National Electric Safety Code (1993 edition, approved July 10, 1992, published by the Institute of Electric and Electronic Engineers, 445 Hols Lane, P.O. Box 1331, Piscataway NJ 08855-1331):
 - 1) Section 2 (Definitions of Special Terms);
 - 2) Section 9 (Grounding Methods of Electric Supply and Communication Facilities);
 - 3) Part 2 (Sections 20-27: Safety Rules for the Installation and Maintenance of Overhead Electric Supply and Communication Lines); and
 - 4) Part 3 (Sections 30-39: Safety Rules for the Installation and Maintenance of Underground Electric Supply and Communication Lines).
- c) No incorporation in this Part includes any later amendment or edition.

(Source: Amended at 17 Ill. Reg. 22043, effective February 15, 1994)

Section 305.30 General Rules

All electric supply and communication lines and equipment shall be designed, constructed and maintained to meet the requirements of this Part to enable service to be safe, adequate and dependable. For all particulars not specified in this Part, construction and maintenance should be done in accordance with accepted engineering practices for the given local conditions.

Section 305.40 Application

a) New Installation and Extensions

These rules shall apply to all new installations and extensions, except that they may be waived or modified by the Illinois Commerce Commission. Instances of waiver or modification would include, but not be limited to, space limitations, temporary construction, or changes in technology. When the Commission waives or modifies these rules, it shall approve equivalent safety measures, including special working methods.

b) Existing Installations

- 1) Existing installations including maintenance replacements which comply with the Commission's rules which were in effect at the time of original installation need not be modified to comply with this Part except as may be required for safety reasons as directed by the Commission.

- 2) Where an existing installation meets, or is altered to meet, the requirements of this Part, such installation is considered to be in compliance with this Part and is not required to comply with any previously adopted rules of the Commission that have been superseded by this Part.
- 3) Where conductors or equipment are added, altered, or replaced on an existing structure, the structure or the facilities on the structure need not be modified or replaced if the resulting installation will be in compliance with:
 - A) The rules which were in effect at the time of the original installation;
 - B) The rules in effect at the time of a previous modification; or
 - C) The rules currently in effect.
- c) **Effective Date.** This Part shall apply to new installations and extensions where design was started and approval given by the company after October 1, 1984.

(Source: Amended at 17 Ill. Reg. 22043, effective February 15, 1994)

Section 305.50 Certificates of Public Convenience and Necessity

An application for a Certificate of Public Convenience and Necessity to construct, operate and maintain a new electric supply line or communication line shall be accompanied by a plat of suitable scale to clearly show:

- a) The location of the proposed line along its entire length.
- b) The location of railroad tracks, and electric supply and communication lines which will be crossed by the proposed new lines.
- c) The location of all other electric supply and communication lines that are located within one-half mile of the route of the proposed new line.
- d) The names of the utilities owning or operating railroads, electric supply and communication lines, shown on the plat in conformance with subsections (b) and (c) above.

Section 305.60 Notification Procedure for Applications

Notice of the filing of an application for a Certificate of Public Convenience and Necessity to construct new line facilities or an application for authority to reconstruct, alter or remove existing line facilities shall be given by the applicant at the time of filing its application with the Commission to all other utilities whose lines will be crossed by the proposed new or reconstructed line facilities, or whose lines will be paralleled within 200 feet by such new or reconstructed line facilities. A list of all utilities to whom such notices were sent, including their addresses, shall accompany the application.

Section 305.70 Advance Notice and Cooperation

- a) **Railroad Crossings.** An electric or communication utility planning to cross the tracks of a railroad, either overhead or underground, shall give notice of its intention to do so. Unless other mutual arrangements are made in conformity with Section 305.80, such notice shall be given by registered mail at least 20 calendar days in advance of the commencement of construction. Such notice shall include information regarding the location and general plan for the crossing, planned clearances, and such other pertinent information in sufficient detail to determine whether the proposed construction conforms with the requirements of this Part. In a case of emergency where the required notice would work a hardship on the company planning the crossing, the involved parties shall cooperate so as to avoid unnecessary delay in construction of the crossing.
- b) **Overhead Line Crossing.** An electric or communication utility planning a crossing over or under an existing line, or general reconstruction of an existing crossing, shall give notice of its intention to do so. Unless other mutual arrangements are made in conformity with Section 305.80, such notice shall be given by registered mail at least 20 calendar days in advance of the commencement of construction. All parties involved in such planned crossing construction or reconstruction shall cooperate in coordinating plans for future construction.
- c) **Inductive Coordination.**

Although the Commission has no specific rules covering inductive coordination, the Commission retains full jurisdiction of such matters as location, design, construction, operation and maintenance of power and communication circuits, where consideration of these or other conditions may be necessary in order to prevent or eliminate inductive interference.

Section 305.80 Interchange Data

To assist in promoting conformity with these rules, a procedure or plan should be instituted between all utilities whose facilities may occupy the same territory so that it will provide for the exchange of pertinent data and information, including data relative to proposed and existing construction, and changes in operating conditions which may affect or be likely to affect situations of proximity.

Section 305.90 Coordinated Locations of Lines

- a) **General Location.** Utilization of highways is essential to the economical and efficient extension, operation and maintenance of power and communication services. To avoid unduly increasing the number or difficulty of proximity situations incident to the use of the same highway by two or more different types or kinds of facilities, all lines should be located as follows:

Where communication circuits and electric circuits on the same highway are not to occupy joint structures or where either kind of a circuit is alone on a highway, all communication circuits should be placed on one side of the highway and all electric circuits should be placed on the other side, so that one side of any section of a highway will be available as the communication side and one side as the power side.

- b) **Other Rights-of-Way.** Subsection (a) shall also apply to other rights-of-way. Situations should also be avoided whereby the reasonable use of parcels of property is restricted by the planned route traversing the property.

Section 305.100 Overbuilding or Underbuilding

Overbuilding or underbuilding of one pole line by another pole line should be avoided. Where it is necessary for the lines to occupy the same side of the highway, the use of a single pole line is preferable.

Section 305.110 Exceptions and Additions to NESC Provisions

- a) Footnotes and notes which reference provisions of the NESC which have not been expressly adopted by the Illinois Commerce Commission shall not be construed to incorporate such provisions into this Part.
- b) Table A of this Part provides minimum vertical separation between crossarms for the safety of electric and communication employees. Said table will be used in conjunction with Rule 238 in addition to Table 238-1 of the NESC.

Section 305.120 Intent

- a) Statements in this Part which are to be regarded as mandatory are characterized by the use of the word "shall." Statements in this Part which are advisory in nature, to be followed insofar as practical, are indicated by the word "should." Statements in the NESC which are advisory in nature, to be followed insofar as practical, are indicated as "RECOMMENDATIONS."
- b) Notes contained herein other than footnotes to tables, are for information purposes only and are not to be considered as mandatory or as part of the code requirements.

Section 305.130 Exemption

If exemption from any of the requirements herein is desired in any particular case, the Commission will consider the application of a public utility for such exemption when accompanied by a full statement setting forth the conditions existing and the reasons why such exemption is desired. Exemptions will be governed by the same standards applicable to waivers and modifications in Section 305.40(a). It is understood that any exemption so granted shall apply only to the particular case covered by the application,

and exemption shall not be extended to other cases unless specifically granted in the Commission's order.

**TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES**

**PART 790
INTERCONNECTION**

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SUBPART E: REPORTING REQUIREMENTS

Section 790.400 Reporting Requirements

AUTHORITY: Implementing Sections 8-501, 8-502, 8-503, 8-504, 8-506, 13-505.1, and 13-505.5 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/8-501, 8-502, 8-503, 8-504, 8-506, 13-505.1, 13-505.5, and 10-101].

SOURCE: Adopted at 18 Ill. Reg. 6147, effective May 1, 1994; amended at 19 Ill. Reg. 14779, effective November 1, 1995.

SUBPART A: GENERAL PROVISIONS

Section 790.5 Applicability

This Part shall apply to any telecommunications carrier, as defined in Section 13-202 of the Public Utilities Act ("Act") [220 ILCS 5/13-202] providing local exchange telecommunications services as defined in Section 13-204 of the Act. In addition, this Part shall apply to any entity certificated by the Illinois Commerce Commission ("Commission") under Section 13-401, 13-403, 13-404, or 13-405 of the Act.

(Source: Amended at 19 Ill. Reg. 14779, effective November 1, 1995)

Section 790.10 Definitions

"Bona fide request" is a request by which an interconnector states, in writing, that it will purchase "loops" and/or "ports" within six months after the date of the request.

"Bona fide request for loop subelements" is a request by which an interconnector states, in writing, that it will purchase specific "loop subelements" within six months after the date of the request.

"Central office" or "CO" means a location within a local exchange area where subscriber lines or interoffice trunks are connected to a local exchange carrier's switch.

"Competitive access provider" or "CAP" means any entity other than the principal provider of telecommunications service that is certificated to provide telecommunications services within the local exchange.

"Contribution charge" means a charge that recovers specifically identified subsidies or non-cost based allocations that are embedded in rates for special access or private line services or switched transport services.

"Cross-connect charge" means the amount of money assessed the inter-connecting parties on a monthly basis by the LEC for connection to LEC services or elements of services at a location described in Section 790.120(f).

"End-user" means any entity other than a telecommunications carrier that requires access to a LEC location described in Section 790.120(f) in order to connect its own communications equipment for the purposes of providing service to its own community of users.

"FCC Expanded Interconnection Rule" means the order entered by the Federal Communications Commission ("FCC") on September 17, 1992, in CC Docket 91-141, "In the Matter of Expanded Interconnection with Local Telephone Company Facilities," and amended by the FCC on December 18, 1992, and on September 2, 1993, in CC Dockets 91-141 and 90-286 in the "Second Report and Order and Third Notice of Proposed Rule-making, nd as amended by the FCC in the "Second Memorandum Opinion and Order on Reconsideration in CC Docket 91-141, released on September 2, 1993. (47 CFR § 64.1401 - 64.1402; 47 CFR § 65.702; 47 CFR § 69.4, 69.121 - 69.123 as of October 1, 1993; this incorporation does not include any later amendments or editions.)

"Incumbent local exchange carrier" is a LEC which provided local exchange services in an exchange on or before December 31, 1993.

"Interconnection" means the point in a network where one telecommunications carrier or end-user interfaces with the local exchange carrier's network or the network provided by another telecommunications carrier under the provisions of this Part.

"Interconnector" is a telecommunications carrier or end-user that has interfaced with the local exchange carrier's network under the provisions of this Part.

"Interexchange carrier" or "IXC" means any telecommunications carrier that is certificated to provide interexchange services (see Section 13-403 of the Act) within Illinois as defined in Section 13-205 of the Act.

"Local exchange carrier" or "LEC" means a telecommunications carrier under the Act that is a principal provider of that provides local exchange telecommunications services as defined in Section 13-204 of the Act.

"Loop" or "unbundled transport path" is a transmission path capable of transporting analog or digital signals from the network interface at a customer's premises to a distribution frame, digital signal cross-connect panel, or similar demarcation which is accessible to the interconnector.

"Loop subelements" are components of the "loop" offered as individual and separately available services and/or separately available interconnector points.

"Physical collocation" means the type of interconnection provided by an LEC to an interconnector where the interconnector locates its equipment within space assigned by the LEC for the interconnector's exclusive use and where the interconnector has physical access and control over its equipment subject to the provisions of this Part and any applicable tariff.

"Port" or "unbundled switching facility" is a mechanism allowing access to the functions of the switch including, but not limited to, dial tone generation, an individual network address, and the ability to originate and/or terminate both local and interexchange calls. In addition, port services include access to network support functions such as 911 and directory assistance services, as well as a directory listing as described in 83 Ill. Adm. Code 735.180, whenever such services are offered to a comparable bundled switched service. Port services also include the ability to transport analog or digital signals from the switch to a demarcation point which is accessible to the interconnector.

"Serving wire center" means the location in the LEC network that serves a telecommunications carrier's (such as an interexchange carrier) point of presence.

"Special access or private line" means a transmission path that connects customer-designated premises directly through a local exchange carrier's hub or hubs where bridging or multiplexing functions are performed, or to connect a customer-designated premises and a serving office, and includes all exchange access not utilizing the local exchange carrier's end office switches.

"Switched access" means a two-point communications path between a customer-designated premises and an end-user's premises that provides for the use of common terminating, switching, and trunking facilities and

for the use of common subscriber plant of the local exchange carrier and provides for the ability to originate calls from an end-user's premises to a customer-designated premises, and to terminate calls from a customer-designated premises to an end-user's premises in the local access transport area where it is provided.

"Tier 1 LEC" means a local exchange carrier having annual gross revenues from regulated telecommunications operations of \$100 million or more.

"Virtual collocation" refers to the type of interconnection provided by an LEC to an interconnector that is economically, technically, and administratively comparable to the manner in which the LEC's facilities interconnect with its own network. It may, at the interconnector's discretion, include an arrangement where the interconnector is provided equipment in a location described in Section 790.120(f) under an arrangement whereby the interconnector may not have ownership of the equipment and does not have physical access or control, other than through remote monitoring, subject to the provisions of this Part and any applicable tariff.

(Source: Amended at 19 Ill. Reg. 14779, effective November 1, 1995)

SUBPART B: SPECIAL ACCESS AND PRIVATE LINE INTERCONNECTION

Section 790.105 Exclusion

Subpart B shall not be applicable to any telecommunications carrier, as that term is defined in Section 13-202 of the Act, which is not a Tier-1 LEC.

(Source: Added at 19 Ill. Reg. 14779, effective November 1, 1995)

Section 790.110 Special Access and Private Line Interconnection--Availability of Expanded Interconnection

- a) Tier 1 LECs shall file intrastate tariffs providing for interconnection under a physical collocation arrangement by June 15, 1994, for all locations for which the LEC has an interstate tariff in effect for expanded interconnection in compliance with the FCC Expanded Interconnection Rule.
- b) Tier 1 LECs may petition for, and the Commission shall grant, a waiver of the requirement to provide physical collocation if the FCC has granted a waiver due to the lack of space or, after hearings, the Commission finds that the LEC has demonstrated that a particular location lacks the space necessary to provide physical collocation.

- c) Tier 1 LECs may petition for, and the Commission shall grant, a waiver of the requirement to provide virtual collocation if the FCC has granted a waiver due to the lack of space or, after hearings, the Commission finds that the LEC has demonstrated that a particular location lacks the space necessary to provide virtual collocation.
- d) Parties entitled to request interconnection at LEC locations in order to terminate their own special access or private line transmission facilities shall include:
 - 1) Any entity to which the Commission has issued a certificate under Sections 13-401, 13-403, 13-404, or 13-405 of the Act for the telecommunications services in the geographical area of the interconnection request; and
 - 2) End-users. An end-user may seek an interconnection arrangement without certification requirements.

Section 790.120 Special Access and Private Line Interconnection--Standards for Interconnection Arrangements

- a) Space allocation and exhaustion. In LEC locations that are tariffed to provide physical collocation, LECs shall:
 - 1) Offer space on a first-come, first-served basis to all interconnectors;
 - 2) Offer a physical collocation arrangement until such space available for interconnection is filled to capacity;
 - 3) Not reject subsequent interconnection requests due to lack of space, but shall provide a virtual collocation arrangement in lieu of the physical collocation arrangement unless the LEC has obtained a waiver under Section 790.110(c); and
 - 4) Include the demand for interconnection when planning to remodel an existing location or building a new location in the same manner as any other demand for other services is taken into consideration.
- b) Points of interconnection. When virtual collocation is provided, LECs shall specify an interconnection point or points as close as possible to the location in which interconnectors are requesting interconnection. These interconnection points must be physically accessible by both the tele-

communications carrier and interconnectors on a non-discriminatory basis. Under virtual collocation, the interconnection point shall constitute the demarcation between interconnector and the LEC ownership of facilities.

- c) Points of entry. LECs shall provide at least two separate points of entry to a location for the interconnector's cable facilities whenever there are at least two entry points for LEC cable facilities.
- d) Equipment placed by or for interconnectors. Expanded interconnection requirements shall apply only to CO equipment needed to terminate or aggregate basic transmission facilities. The LECs are not required to place or allow the placement of other types of equipment by interconnectors (such as switching equipment, enhanced services, or customer premise equipment) in the location under either a physical collocation arrangement or a virtual collocation arrangement.
- e) Interconnection of microwave technologies. Tier 1 LECs shall provide interconnection for microwave technology. Tier 1 LECs may petition for, and the Commission shall grant, a waiver of this subsection if the FCC has granted a waiver of the requirement to interconnect microwave technology or, after hearings, the Commission finds that the LEC has demonstrated that the CO cannot physically accommodate the equipment or it is not technologically feasible to provide the expanded interconnection.
- f) Locations at which interconnection is available. LECs shall provide expanded interconnection at serving wire centers, end offices (central offices), and any other points which the telecommunications carriers use as a rating point (a point used in calculating the length of interoffice special access links).
- g) Shared use of switched and special access services. Interconnectors shall not be allowed to use intrastate special access expanded interconnection offerings to connect their transmission facilities with the local exchange carrier's intrastate switched services until the LEC has an effective tariff on file with the Commission implementing an interim local transport rate structure at the intrastate level in response to the order adopted by the FCC on September 17, 1992 in CC Docket 91-213, "In the Matter of Transport Rate Structure and Pricing."

(Source: Amended at 19 Ill. Reg. 14779, effective November 1, 1995)

Section 790.130 Special Access and Private Line Interconnection--Pricing and Rate Structure Issues

- a) Cross-connect charge. Prices for the connection charge shall equal or exceed the long-run service incremental costs (LRSIC) of providing the service.
- b) Contribution charge. The LECs are prohibited from recovering a contribution charge from interconnectors unless approved by the Commission as provided in this subsection. The LEC may petition for, and the Commission shall approve, a contribution charge if, after hearings, the Commission finds that the LEC has demonstrated a need for a contribution charge. Any contribution charge permitted under this Section shall only recover specifically identified subsidies or non-cost based allocations embedded in rates for special access or private line.
- c) There is no requirement through this Part to provide price parity between physical and virtual collocation arrangements.
- d) LEC special access or private line offerings.
 - 1) Pricing and rate structure flexibility for LEC special access or private line offerings. LECs with operational expanded interconnection offerings may petition the Commission to receive approval to implement a system of traffic density-related and cost-based zones for special access or private line services classified as noncompetitive services as defined in the Act. Rates within each zone must be averaged within each zone, but rates may differ for special access services between zones. Rates shall be based on average LRSIC within each zone.
 - 2) Volume and term discounts.
 - A) LEC customers with long-term access arrangements of three years or more as provided in the FCC Expanded Interconnection Rule may review these arrangements. These long-term arrangements must have been entered into on or before September 17, 1992.
 - B) The right to end a long-term arrangement at a specific location will exist for a period of 180 days from the date the first cross-connect is operational in that location. Within five business days from the date on which the first expanded interconnection arrangement becomes operational in that

location, the LEC shall file with the Commission a tariff transmittal stating that the fresh look period will begin to run as of the date such notice is filed with the Commission. If a party chooses to terminate a long-term arrangement within this period, the termination charge will be limited. The LEC may not charge more than the difference between the amount the customer has already paid and any additional charges that the customer would have paid for service if the customer had taken a shorter term offering corresponding to the term actually used, plus interest at the prime rate. Interest rates are to be adjusted to reflect changes in the prime rate and will apply to the balances due under the recalculation as they would have accrued over time.

C) Reconfiguration charges must be applied in a neutral manner that does not discriminate based on whether the customer chooses to use an alternate provider's facility or LEC facility for special access or private line service, unless there are specific, identifiable cost differences. All non-recurring charges applicable to a customer's shifting to an alternate provider's services are to be set no higher than cost-based levels. In addition, the difference between the charges applicable when a customer shifts to an alternate provider's services and those applicable when a customer reconfigures its service with the LEC must be cost-based. The customer is entitled to the limitation on the termination charges even if it does not terminate service under the long-term arrangement with the LEC until after the 180 day period has expired.

D) Rates contained in tariffs which include volume and term discounts shall be cost-based.

3) Distance sensitivity. Rate elements contained in the tariffs that are based on distance sensitivity must be cost-based.

SUBPART C: SWITCHED TRANSPORT INTERCONNECTION

Section 790.200 Switched Transport Interconnection—Interconnection Architecture

Interconnection architecture for switched transport interconnection shall be provided under the same terms and conditions as special access interconnection (see Section 790.100).

Section 790.210 Switched Transport Interconnection--Availability of Expanded Interconnection

Availability of switched transport interconnection shall be provided under the same terms and conditions as special access interconnection (see Section 790.110), except a LEC shall not be required to provide switched transport interconnection at any location where it is technologically unfeasible (see Section 790.120(f)). LECs may petition for, and the Commission shall grant, a waiver of the requirement to provide physical collocation if the FCC has granted a waiver due to the lack of space, or if, after hearings, the Commission finds that the LEC has demonstrated that it is not technically feasible to provide physical collocation at a particular location.

Section 790.220 Switched Transport Interconnection--Standards for Expanded Interconnection Arrangements

Standards for switched transport interconnection shall be provided under the same terms and conditions as special access interconnection (see Section 790.120) with the addition of tandem offices as locations from which switched transport interconnection will be made available. LECs are not required to place or allow the placement of other types of equipment (such as enhanced services, customer premise, or switching equipment) in the location under either a physical collocation arrangement or virtual collocation arrangement.

Section 790.230 Switched Transport Interconnection--Pricing and Rate Structure Issues

Pricing and rate structure issues related to the provision of switched transport interconnection shall be under the same terms and conditions as special access interconnection (see Section 790.130, except for Section 790.130(d)). Any contribution charge permitted under this Section shall only recover specifically identified subsidies or non-cost based allocations embedded in rates for switched transport interconnection.

Section 790.240 Implementation of Switched Transport Interconnection

This Subpart shall apply to an individual LEC on the date the LEC has an effective tariff on file with the Commission implementing an interim local transport structure at the intrastate level in response to an order adopted by the FCC on September 17, 1992, in CC Docket 91-213, "In the Matter of Transport Rate Structure and Pricing."

SUBPART D: REPORTING REQUIREMENTS

Section 790.300 Reporting Requirements

LECs offering "loops", "ports", or "loop subelements" pursuant to Section 790.310 (a), (b), or (c), shall offer interconnection to such elements through arrangements as described in this Subpart. For purposes of line-side interconnection, LECs shall also allow virtual collocation arrangements in which the interconnector requires no central office equipment other than a digital or analog cross connection to the specified "loop" or "port" demarcation point. This requirement is subject to the waiver provision of Section 790.320(e).

(Source: Former Section 790.300 renumbered to Section 790.400, new Section added at 19 Ill. Reg. 14779, effective November 1, 1995)

Section 790.305 Temporary Exclusion

Prior to January 1, 1998, Subpart D shall not be applicable to any incumbent LEC, which is not also a Tier-1 LEC as those terms are defined in Section 790.10.

(Source: Added at 19 Ill. Reg. 14779, effective November 1, 1995)

Section 790.310 Line-side Interconnection—Standards for Interconnection Arrangements

- a) All switch-associated grades-of-service and installation, repair and maintenance intervals which apply to a LEC's bundled local exchange end-user access services shall also apply to that LEC's corresponding unbundled port services, unless the grades-of-service or intervals are materially improved due to the unbundling, in which case the improved grades-of service intervals shall apply.
- b) All transport-associated grades-of-service and installations, repair and maintenance intervals which apply to a LEC's bundled local exchange end-user access services also shall apply to that LEC's corresponding unbundled loop services, unless the grades-of-service or intervals are materially improved due to the unbundling in which case the improved grades-of-service or intervals shall apply.
- c) All switch-associated optional features, functions, services and capabilities available with each bundled local exchange end-user access service shall be available under identical rates, terms, and conditions for the corresponding unbundled port services.

- d) All transport-associated optional features, functions, services and capabilities available with each bundled local exchange end-user access service shall be available under identical rates, terms, and conditions for the corresponding unbundled loop services.

(Source: Added at 19 Ill. Reg. 14779, effective November 1, 1995)

Section 790.320 Line Side Interconnection—Implementation of Line Side Interconnection

- a) A LEC shall file intrastate tariffs offering “loops” and/or “ports” within 180 days after receiving a bona fide request.
- b) LECs shall file intrastate tariffs offering “loop subelements” within 180 days after receiving a “bona fide request for loop subelements.”
- c) After a LEC has offered “loops”, “ports”, or “loop subelements” in its tariff for a particular exchange, it must file intrastate tariffs offering those same elements in other exchanges within 60 days after a “bona fide request” for those services in another exchange.
- d) Nothing in this Section shall preclude a LEC from filing intrastate tariffs offering “loops”, “ports”, or “loop subelements” before receiving a bona fide request.
- e) LECs may petition for a waiver of the requirement to provide “loops”, “ports”, or “loop subelements” within 60 days after receiving a bona fide request. The petitioner must demonstrate that offering line-side interconnection or offering line-side interconnection in the manner set forth in this Subpart is not technically or economically practicable, considering demand for the service, and/or offering line-side interconnection would be contrary to the public interest.

(Source: Added at 19 Ill. Reg. 14779, effective November 1, 1995)

SUBPART E: REPORTING REQUIREMENTS

Section 790.400 Reporting Requirements

- a) Each LEC subject to this Part shall file with the Commission reports on interconnection. These reports shall be filed on May 1, 1996 and May 1, 1998.
- b) The reports required by this Section shall identify:

- 1) Entities using expanded interconnection in the service areas of the LEC; and
- 2) The location at which each interconnection occurs.

(Source: Section 790.400 renumbered from Section 790.300 at 19_Ill. Reg. 14779, effective November 1, 1995)

- d) All transport-associated optional features, functions, services and capabilities available with each bundled local exchange end-user access service shall be available under identical rates, terms, and conditions for the corresponding unbundled loop services.

(Source: Added at 19 Ill. Reg. 14779, effective November 1, 1995)

Section 790.320 Line Side Interconnection--Implementation of Line Side Interconnection

- a) A LEC shall file intrastate tariffs offering "loops" and/or "ports" within 180 days after receiving a bona fide request.
- b) LECs shall file intrastate tariffs offering "loop subelements" within 180 days after receiving a "bona fide request for loop subelements."
- c) After a LEC has offered "loops", "ports", or "loop subelements" in its tariff for a particular exchange, it must file intrastate tariffs offering those same elements in other exchanges within 60 days after a "bona fide request" for those services in another exchange.
- d) Nothing in this Section shall preclude a LEC from filing intrastate tariffs offering "loops", "ports", or "loop subelements" before receiving a bona fide request.
- e) LECs may petition for a waiver of the requirement to provide "loops", "ports", or "loop subelements" within 60 days after receiving a bona fide request. The petitioner must demonstrate that offering line-side interconnection or offering line-side interconnection in the manner set forth in this Subpart is not technically or economically practicable, considering demand for the service, and/or offering line-side interconnection would be contrary to the public interest.

(Source: Added at 19 Ill. Reg. 14779, effective November 1, 1995)

SUBPART E: REPORTING REQUIREMENTS

Section 790.400 Reporting Requirements

- a) Each LEC subject to this Part shall file with the Commission reports on interconnection. These reports shall be filed on May 1, 1996 and May 1, 1998.
- b) The reports required by this Section shall identify:

- 1) Entities using expanded interconnection in the service areas of the LEC; and
- 2) The location at which each interconnection occurs.

(Source: Section 790.400 renumbered from Section 790.300 at 19_Ill. Reg. 14779, effective November 1, 1995)